

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,
Plaintiff

v.

2004 FERRARI 360 MODENO,
Defendant.

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CIVIL ACTION NO. 4:10-cv-04474

DEFENDANT'S ORIGINAL ANSWER

Defendant, Josette Claude, files this original answer to plaintiff, United States of America's Verified Complaint for Forfeiture in Rem.

A. Admissions & Denials

1. Defendant admits the allegations in paragraph 1, 2, 3, and 4.
2. Defendant is without knowledge or information sufficient to form a belief as to the truth of paragraphs 5, 6, and 7.
3. Defendant denies the allegations in paragraph 8.

B. Affirmative Defenses

4. Defendant is not liable to the Plaintiff because the forfeiture is constitutionally excessive and grossly disproportional to the alleged offense and should be eliminated to avoid a violation of the Excessive Fines Clause of the Eight Amendment of the Constitution.
5. Additionally, the Defendant is an innocent owner. Defendant has an interest in the property that was in existence at the time of the alleged illegal conduct giving rise to the forfeiture. Further, Defendant did not know of any conduct giving rise to the forfeiture.

Finally, Defendant was a bona fide purchaser for value of the property and did not know and was reasonably without cause to believe that the property was subject to forfeiture.

C. Prayer

6. For these reasons, defendant asks the court to enter judgment that plaintiff take nothing, dismiss plaintiff's suit with prejudice, assess costs against plaintiff, and award defendant all other relief to which he is entitled.

D. Defendant's Demand for Jury Trial

7. Defendant, Josette Claude, asserts his rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

Respectfully submitted,


By: 

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ATTORNEY IN CHARGE FOR
Josette Claude, Defendant

CERTIFICATE OF SERVICE

I certify that a copy of Defendant's Original Answer and Jury Demand was served on Albert Ratliff, who is the attorney in charge for Plaintiff, United States of America, and whose address is United States Attorney's Office, P.O. Box 61129, Houston, Texas 77208 by certified U.S. mail, return receipt requested and e-mail to albert.ratliff@usdoj.gov on 21st day of December 2010.


Shannon B. Baldwin